IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR

O R D E R

S.B. CRIMINAL REVISION PETITION NO. 475/2007

RAM SINGH Vs. STATE OF RAJASTHAN

DATE: 18.05.2007.

HON'BLE MR. K.S. RATHORE, J.

Mr. R.R. Baisla for the accused-petitioner.
Mr. B.K. Sharma, Public Prosecutor for the State.

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The present criminal revision petition under Section 397 r/w Section 401 Cr.P.C. is preferred by the accused-petitioner against the judgment dated 01.05.2007 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Tonk in Criminal Jail Appeal No. 01/2007, whereby the Appellate Court has rejected the application filed by the accused-petitioner under Section 5 of the Limitation Act and the appeal has not been entertained as being filed beyond time.

The case of the petitioner is that he could not file the appeal well within time as he was confined in jail at Tonk and is still in jail, therefore, he instructed his counsel to file appeal along with the application under Section 5 of the Limitation Act.

While deciding the application under Section 5 of the Limitation Act it is observed that the appeal itself has been filed after expiry of two years and the reason stated by the petitioner was not found satisfactory, therefore, the appeal without entertaining on merits has been dismissed on the ground of delay and latches.

Heard learned counsel for the accused-petitioner, learned Public Prosecutor for the State and have also gone through the impugned order dated 01.05.2007 passed by the Appellate Court.

The only reason stated by the petitioner in the application under Section 5 of the Limitation Act is that he was confined in jail at Tonk, which is sufficient cause to condone the delay, may be the appeal is filed after expiry of two years and in the interest of justice, the appeal should be decided on its merit.

As per the settled proposition of law laid down by the Hon'ble Supreme Court and this Court, I find illegality and error in the impugned judgment dated 01.05.2007 passed by the Special Judge, SC/ST (Prevention of Atrocities) Cases, Tonk which deserves to be quashed and set-aside and the same is hereby quashed and set-aside with the direction that the

application under Section 5 of the Limitation Act be allowed and the appeal filed by the accused-petitioner be treated within time and should be heard and disposed of on its merit.

The revision petition stands allowed accordingly.

(K.S. RATHORE),J.

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